



Lamoine Board of Appeals

606 Douglas Hwy
Lamoine, ME 04605
(207) - 667-2242
town@lamoine-me.gov

APPEAL or VARIANCE APPLICATION

Applicant's Name: Perry N. Toane Tax Map # 14 Lot # 39

Property owner's name (if different) Ken Ogden

Mailing Address

Physical Address (if different)

9 Cove Rd.
Lamoine, ME 04605

Telephone (H) _____ (C) 207-667-4561 (W)

Email Address: _____

Type of Appeal: (check one)

Applicable Ordinance (check all that apply)

☒ Administrative*

☐ Building & Land Use

☐ Variance Request

☐ Shoreland Zoning Ordinance

*If Administrative, what decision making authority is being appealed?

☐ Gravel Ordinance

☒ Code Enforcement Officer/LPI

☐ Site Plan Review Ordinance

☐ Planning Board

☐ Other _____

☐ Other

For Administrative Appeals:

This application is for a decision or lack of decision by the above party because the applicant believes:

☐ An error was made in the denial of a permit

☐ Denial of a permit was based on a misinterpretation of an ordinance

☐ There is a failure to approve or deny a permit within a reasonable period of time

☒ Other (please state reason)

See Attached memorandum.

(continued on other side)

Lamoine Appeal or Variance Application

For Variance Requests:

Please describe the nature of the variance you are requesting:

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For a variance to be granted, four criteria must be met. Please explain how your situation meets each of the following criteria: (you may attach additional pages)

- The land in question cannot yield a reasonable return unless the variance is granted.

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- The need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood.

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- The granting of a variance will not alter the essential character of the locality.

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- The hardship is not the result of action taken by the appellant or a prior owner.

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I certify the information contained in this application and any supplements is true and correct.

Date

7/30/2019

Signature



(Application Fee is \$50.00, payable to the Town of Lamoine)

For town staff/Appeals Board Use Only – Paid by: <input type="checkbox"/> Cash <input type="checkbox"/> Check <input type="checkbox"/> Credit Card			
Dated Rec'd By:		Date Sent to Appeals Board By:	
Initial Hearing Date		Date of abutter notification By:	
Public Hearing Notices mailed by:		Newspaper Ad Date(s) By:	
<input type="checkbox"/> Appeal Approved (Date)		<input type="checkbox"/> Appeal Denied (Date)	

MEMORANDUM

TO: BOARD OF APPEALS

FROM: TERRY N. TOWNE

SUBJECT: APPEAL OF CEO DECISION

DATE: JULY 30, 2019

C.C. BOARD OF SELCTMEN

This is an Appeal Application of the Code Enforcement Officer's July 3, 2019 interpretation of the Lamoine Shoreland Zoning Ordinance that "RV, not being a "structure" does not need to meet the set-backs that actual structures do."

On August 28, 2018, the Lamoine Code Enforcement Officer (CEO) issued a Building Permit and Shoreland Permit to Ken Ogden for the placement of a Recreational Vehicle (RV) on Map 14, Lot 39, that was represented on the Construction Application to be 103' from Frenchman Bay, see attached Construction Application. On September 6, 2018, Steve Salsbury, Professional Land Surveyor 2207, submitted a Permit By Rule Notification Form, (PBR), to the Maine Department Environmental Protection (DEP) and included with the form was the required scaled sketch, which he professionally stamped and titled, "Sketch of Existing Conditions For: Ken Ogden, Meadow Point Road, Lamoine, ME." The scaled sketch revealed that the "Old Driveway", where the RV is now located, is less than 20' from the "Coastal Wetland Boundary". This location is less than the required setbacks requirements of the Lamoine Shoreland Zoning Ordinance (SZO), Section 15.E, see attached, and this Coastal Wetland Boundary was not indicated as required by Ken Ogden on the Construction Application. Steve Salsbury, unsolicited, forwarded to me by email a copy of the PBR Notification Form and its attachments on September 6, 2019. After the placement of the RV on the lot this spring, a copy of the PBR was hand delivered to the CEO, and I do believe copies of an approved PBR is forwarded to the town by the DEP. Either way the CEO had the legal documentation that the RV placement did not meet the SZO required setbacks. Additionally, the Ogden Construction Application is lacking the designation of the "Zone", which appears to be Resource Protection, see attached the pertinent portion of the Flood Insurance Rate Map Panel 0984 and the Lamoine DEP Significant Wildlife Habitat Map as included in the definition of the Resource Protection District, SZO Section 13.E. Also, the Construction Application has a "?" in the "Are the Current Uses non-conforming?" section, but there is nothing on the Application that this question was ever answered or any documentation provided by the applicant. Lastly, the Application does not indicate any length of time the RV is to be located on the lot.

On June 25, 2019, I electronically filed a complaint to the CEO requesting clarification about the placement of the RV, see attached. On July 3, 2019, after several email exchanges with the CEO, see attached email chain, the CEO rendered the following decision, "The SZO has a definition of a Recreational Vehicle. It states in that definition that an RV is NOT a structure,"In order to be considered a vehicle and not a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles" Hence, an RV, not being a "structure" does not need to meet the set-back s that actual structures do. An RV can be placed on the property for 120 only." (?) *(Please note the attached email chain should be read from end to beginning to keep in proper chronological order) Also, the CEO on June 26, 2019 emailed me with the following statement, "I just spoke with Jon Cullen @ DEP about the Ogden lot. He and Dawn Hurd both find that Mr. Ogden's RV placement is compliant., see attached email chain. After a follow-up June 26, 2019 email to and from John Cullen of the DEP, I learned the DEP had not found the RV compliant; "Terry: I spoke to Rebecca about the wood chips Ken Ogden had spread around, not the trailer placement. In my mind, the location of the trailer relative to the edge of the salt marsh has always been the biggest issue. That's a question for the town, not for me.", see attached email chain. Later, July 3, 2019, after receiving the CEO's RV setback interpretation, I received another email from the CEO relaying a message that Mr. Ogden requested for me to give him a call or he would call me. During that call he stated there had been a RV on the lot previously and questioned whether he was "OK to be there". I took that to mean he was now raising the possibility that maybe the RV placement was grandfathered. I have lived on

Meadow Point for 41 years and have walked on that point more than a thousand times I have never seen anyone or any activity on the lot. There was a derelict, crumbling small structure. Until the lot was cleared last year and the old structure legally reconstructed, the old driveway, which was never a campsite or an area where an RV was placed, was hardly discernable, was not able to be accessed by any vehicle, and was barely passable on foot through the myriad of dead and wind-thrown trees that had been that way for many years. My search through town records could not find any previous permits for any activity on Map 14, Lot 39, and I would submit, if there had been any uses on that lot, SZO Section 12.2. Resumption Prohibited: see attached, such a use of an RV and/or development of a campsite for a RV cannot be resurrected. Because of the documentation provided by the Steve Salsbury for the PBR required sketch, I submit the following; the RV does not meet the setback requirements of the Lamoine Shoreland Zoning Ordinance (SZO), Section 15.E, see attached. From the email from John Cullen of the DEP, the DEP also feels that the RV does not meet the required setbacks and the CEO misrepresented the conversation with John Cullen of the DEP. I also submit the following; because the activity as represented by the applicant is an activity that is within 125' of normal high-water line, the CEO should have required the setback mark to have been marked with stakes set by a registered surveyor at the owner's expense and a letter from said surveyor attached to the application for the Shoreland Permit, Section, Section 15.B.1, see attachment and due the lack of any supporting documentation, this use cannot be argued as a grandfathered use, Lamoine Shoreland Zoning Ordinance (SZO), Section 12.2, see attached. Also, a review of the Construction Permit application will reveal the CEO failed to require any of the documentation required in Section 15.E, Temporary Uses, see attached. The placement of the RV in this manner will adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values that are to be protected in the Resource Protection zone. Because of the lack of thoroughness on this application and the misinterpretation of RV setbacks, the CEO is jeopardizing my home value, and many others within the State Mandated Shoreland Zone in Lamoine and every shorefront owner will sustain an adverse impact on their property values if a RV can be placed anywhere, on any lot in the town of Lamoine if this interpretation stands. The relief I am seeking is the revocation of the Building Permit and Shoreland Permit to Ken Ogden, Map 14, Lot 39, as stipulated in Section IX – signature Section of the Lamoine Construction Permit, “that any permit issued may be revoked because of any breach of representation.”, because it does not meet the setback due to the fact that Ken Ogden failed to indicate on the Construction Application the location of the Coastal Wetland Boundary and the lack of any required verification or inspection by the CEO.

Attachments:

1. Pertinent Sections of, Shoreland Zoning Ordinance, Town of Lamoine, Maine, March 16, 2011
2. Town of Lamoine, Maine Complaint Form
3. Town of Lamoine Construction Application for Ken Ogden, Map 14, Lot 39
4. Permit By Rule Notification, submitted by Steve Salsbury, PLS, Map 14, Lot 39
5. Copy of Town of Lamoine, Maine Flood Map, Portion of Panel 0984
6. Lamoine Significant Wildlife Habitat – Shorebird, Tidal and Waterfowl Habitats
7. Email chain dating from June 25, 2019, to July 3, 2019
8. Photo of RV from the waters of Raccoon Cove

SHORELAND ZONING ORDINANCE

Town of Lamoine, Maine

Section 12. NON-CONFORMANCE

D. Non-conforming Uses

1. Expansions:

Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as permitted in Section 12(C)(1)(a) above.

2. Resumption Prohibited:

A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

Section 13. ESTABLISHMENT OF DISTRICTS

E. Resource Protection District

The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include those areas designated as Resource Protection on the Town of Lamoine Shoreland Zoning Map, as most recently amended, and areas meeting one or more of the following criteria:

1. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds, which are rated "moderate" or "high" value by the Maine Department of Inland Fisheries and Wildlife (MDIF&W). These shall include any such areas in Lamoine that the Department of Environmental Protection has designated as areas of "significant wildlife habitat."

Lamoine Shoreland Zoning Ordinance Approved by the Lamoine Town Meeting, April 7, 2011

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2. Flood plains defined by the 100-year Flood Plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils. This district shall also include 100-year flood plains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps, but shall not include land within the shoreland zone which is shown by a surveyor to be outside the 100-year flood plain.

Section 15. LAND USE STANDARDS

B. Required Setbacks and other Structure Standards

1. Setbacks from Normal High-Water and Flood Plain Boundaries All new principal and accessory structures shall be set back at least one hundred (100) feet from the normal high-water line of any water bodies, tributary streams, or the upland edge of a wetland, except:

- a. in the Commercial Fisheries/Maritime Activities District there shall be no minimum setback if uses are functionally water-dependent; or
- b. when dictated otherwise by the Lamoine Flood Plain Management Ordinance.

The one hundred (100) foot setback mark must be approved by the Code Enforcement Officer prior to any work being done or, in cases where a structure or activities are to be within 125 feet of normal high-water line, the setback mark must be marked with stakes set by a registered surveyor at the owner's expense and a letter from said surveyor attached to the application for shoreland permit.

If a structure or activities are proposed within twenty-five (25) feet of the hundred year Flood Plain, falling thereby in a Resource Protection District, the boundary of that zone must be established and marked by a certified surveyor at the owner's expense and a letter to that effect must be submitted as part of the application for permit.

E. Temporary Uses: Individual, private campsites, recreational vehicles, and similar temporary shelters are permitted provided the following conditions are met:

1. One campsite per lot existing on the effective date of this Ordinance, or forty thousand (40,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and one hundred (100) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
3. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.
4. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
5. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or landowner is required.
6. When a recreational vehicle, tent or similar shelter is placed on a site for purposes of occupation for more than one hundred and twenty (120) days within a calendar year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

Both setback and Floodplain elevation markers must remain undisturbed until the Code Enforcement Officer's inspection has determined that all construction conforms to the requirements of this and other pertinent ordinances.

Town of Lamoine, Maine
606 Douglas Hwy.
Lamoine, ME 04605
207-667-2242
e-mail town@lamoine-me.gov,
website www.lamoine-me.gov



COMPLAINT FORM

Complainant Information

Name of Person Making Complaint Terry N. Toome
Mailing Address 9 Cox Rd.
City Lamoine State ME Zip Code 04605
Telephone (Home) _____ (Work) _____ (Cell) 207-266-4866
E-mail address macmillan@roadrunner.com

Date of Complaint 6/25/19 Date of Possible Violation 5/11/19
Location of Possible Violation Map 14 Lot 39
Person responsible for possible violation Ken Cyden
Property Owner Ken Cyden

Describe nature of activity being reported and what ordinance it might violate. In the space below. Use the reverse side of this form or attach additional statements if necessary.

Was the recreational vehicle placed on the lot meet the setbacks required by the Shoreland Zoning Ordinance?

Signature [Signature]

Return to:

Code Enforcement Officer
Town of Lamoine
606 Douglas Hwy
Lamoine, ME 04605



Town of Lamoine
Construction Application

This section to be completed by Code Enforcement Officer

Map 14 Lot 39 Zone _____ Shoreland Zone 0 Flood Zone 1

Fee Calculation \$2240 Date Received 8/28/18 Permit Number 18-51

☒ Building Permit ☒ Shoreland Permit ☐ Floodplain Hazard Permit

The undersigned applies for a construction permit for the uses indicated below. Said permit is to be considered on the basis of the information contained within this application. Any Federal, State or Local statutes, or regulations shall be applicable and their compliance necessary to obtain a permit. The permit will be issued to the owner of record or properly designated agent. Incomplete applications will NOT be processed.

Section I – Owner, Applicant & Contractor Information

Owner		Applicant	Contractor
Name	Ken O'Brien		
Mailing Address	PO Box 53		
City, St. Zip	Seacove ME	04674	
Home Phone			
Work Phone			
Cell Phone	266-0530		
Email	KOBrien35@yahoo.com		

Section II – Lot information

Existing Property Use _____ Lot Size (acres or square feet) 1/2

Physical Address of property (road name & number) Mezard Point Lot 39

Please Answer all questions below

	Yes*	No
Are Current Uses non-conforming?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Are State or Federal Permits Required?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is State or Federal Funding provided?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is lot created by division from another lot in the past 5 years?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

*If yes, attach explanation to application

Facilities Info (check all that apply)

Well	
Cold Spring Water Co Customer?	
Septic System Permit #	
Subdivision name & Lot #	

Section III – Proposed Construction Activity

(Check All That Apply, fill in dimensional information) *Provide RV, Mobile Home Information requested on Page 3

Residential Uses	#Stories	Sq. Ft.	Total Sq. Ft.	SSWD #	Int Plumb #	Accessory Uses	Sq Ft
<input type="checkbox"/> New Dwelling Unit						Garage/Shed/Barn	
<input type="checkbox"/> Manufactured Home						Deck	
<input type="checkbox"/> Mobile Home*						Shore Access	
<input type="checkbox"/> Change of Use							
<input type="checkbox"/> Expansion							
<input checked="" type="checkbox"/> Recreational Vehicle*			224				

Other Activity: (Please describe in space below)

Section IV – Demographic & Assessment Information

For new dwelling units only –

- Estimated Construction Costs \$ _____
- Number of Bedrooms _____
- # Full Time Residents _____ # Part Time Residents _____ # Children under 18 _____
- List any in-home occupations proposed _____

Section V – Important Dates

Starting Date: _____ Estimated Completion Date _____

Section VI – Shoreland Zoning (if applicable)

Affected Waterbody _____ Distance from normal high water _____ feet.

Is clearing of trees and other vegetation required? ____ Yes ____ No (if yes, attach explanation)

Is earth moving activity greater than 10CY? ____ Yes ____ No (if yes, DEP Permit required)

Is setback less than 125 feet from high water mark? ____ Yes ____ No

If yes, please attach certification from a licensed surveyor that the 100-foot setback and elevation have been staked.

Section VII – Flood Zone InformationIs the proposed development located within a Flood Hazard Area? ☒ Yes ____ No

If Yes, complete the information below

1. Filling _____ cubic yards of fill
2. Excavation _____ cubic yards removed
3. Paving _____ square yards paved
4. Drilling _____
5. Mining _____ acres mined
6. Dredging _____ cubic yards dredged
7. Levee _____ cubic yards in levee
8. Dam _____ acres of water surface

9. Residential Structure

10. Non-residential Structure

11. Water Dependent Use

A. Dock Dimensions _____

B. Pier Dimensions _____

C. Boat Ramp Dimensions _____

12. Floodproofing _____

13. Other (explain) **RV**Flood Zone (check one) ____ A&AE ____ Floodway ____ **VE** ____ **ZO** ____ **AH**

Elevation of lowest floor (NGVD) for all structures: _____

Grade elevation at lowest grade adjacent to the existing or proposed wall: _____ (NGVD)

Distance in feet of confluence or Corporate limit _____ feet

If in Flood Zone AE or A1-A30, Nearest Cross Section References

Above Site _____ Below Site _____

Elevation of Base Flood at Nearest Cross Section

Above Site _____ Below Site _____

If "A" Zone: Base Flood Elevation _____

Basis of "A" Zone BFE determination _____

If in "VE" Nearest Transect Above site _____ Below Site _____

Provide a statement describing how each applicable development standard (set forth in ARTICLE VI of the Flood Hazard Development Ordinance) will be met. If a water course is to be altered or relocated, describe in detail and provide copies of all applicable state and federal permits. Include certification from a licensed surveyor that the proposed project is located outside of the 100-year floodplain.

Name of Surveyor/Architect/Engineer _____ License # _____

Section VIII – Additional Information or Attachments Required

- If property is not currently assessed to listed owner, please attach record of ownership
- If applicant is signing, please attached signed permission from owner to make application
- Attach any state or federal permits required
- If a dwelling unit, attach 3 copies of HHE200 form and applicable internal plumbing permit applications
- If driveway opens on public road, attach Lamoine Road Opening Permit Application, or MDOT approved road opening permit
- For Shoreland Zone applications with less than 125' setback, attach certification from registered surveyor that markers are placed to establish the 100-foot setback & elevation from the normal high water mark.
- Please supply all information requested on pages 5 and 6 or attach plans with required information.

Section IX – Signature

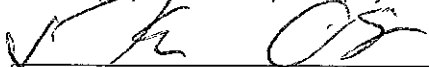
Signature by the applicant indicates an awareness of the requirements of the Lamoine Building and Land Use Codes, the Lamoine Shoreland Zoning Ordinance, and the Floodplain Hazard Development Ordinance for the Town of Lamoine. Submission of this application constitutes an application for a Certificate of Occupancy. **A Certificate of Occupancy must be obtained before the structure hereby permitted is used!. BUILDING PROJECTS MUST MAKE SUBSTANTIAL START WITHIN ONE YEAR OF APPROVAL AND SUBSTANTIAL COMPLETION WITHIN TWO YEARS. SHORELAND PERMITS EXPIRE IN ONE YEAR.**


For those lands which fall within the Lamoine Shoreland Zoning area, a signature on this application indicates that the applicant has read the current Shoreland Zoning Ordinance and agrees to comply with all its requirements if a permit is issued.

For new structures or substantial improvements within the Flood Hazard Area, an approved permit will allow construction up to the establishment of the lowest floor. At that point, the applicant must provide an elevation certificate establishing actual floor elevation. Upon satisfactory documentation to the community (CEO), the construction may continue. The applicant understands and agrees that:

- ⇒ the permit applied for, if granted, is issued on the representations made herein;
- ⇒ that any permit issued may be revoked because of any breach of representation;
- ⇒ that once a permit is revoked all work shall cease until the permit is reissued or a new permit is issued;
- ⇒ any permit issued on this application will not grant any right or privilege to erect any structure or use any premises described for any purposes or in any manner prohibited by the ordinances, codes, or regulations of the Town of Lamoine
- ⇒ The applicant hereby gives consent to the Code Enforcement Officer or designated Town Official to enter and inspect activity covered under the provisions of the Floodplain Management Ordinance
- ⇒ If issued, the permit will be posted in a conspicuous place on the premises in plain view and;
- ⇒ If issued, the permit will expire if no work is commenced within 90 days of issuance (flood hazard only)

I hereby certify that all the statements in, and the attachments to this application are a true description of the existing property and the proposed development project.


Signature


Date

Application Fees:

	Residential Building	Commercial* Building	Shoreland	
Non-roofed	.05/sq. ft.	.10/sq. ft.	Non commercial	.10/sq ft
Roofed	.10/sq. ft./floor	.20/sq. ft/floor	Commercial	.20/sq ft
<100 sq. ft.	No charge	No charge	<100 sq ft	\$10.00
Home Occupations: \$10.00				

*Included Commercial, Industrial, Multi-Family. See Site Plan Review Ordinance, Subdivision sections for additional fees.

For Use by the Code Enforcement Officer Only

Application Number 18-52 Date Received 8/28/18

Fees Collected: Building Permit \$ 22
 SZO Permit \$ 40
 Flood Hazard \$
 Total \$ Receipt #

Action Taken: Received
 Signature Date

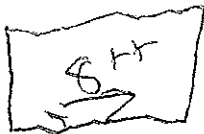
- | | |
|---|--|
| <input checked="" type="checkbox"/> Approved Building Permit | SSWD Permit # <u> </u> |
| <input checked="" type="checkbox"/> Approved Shoreland Permit | DEP Permit # <u> </u> |
| <input type="checkbox"/> Approved Flood Hazard Permit | Internal Plumbing Permit # <u> </u> |
| <input type="checkbox"/> Denied Permits (explain below) | Other Permits (List) |
| <input type="checkbox"/> Routed to Planning Board | |
| <input type="checkbox"/> Routed to Appeals Board | |

Comments

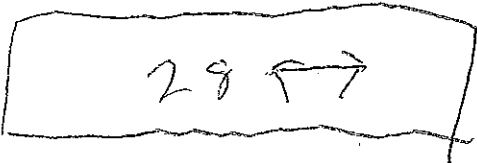
Planning Board Action	Appeals Board Action
Date Received <u> </u>	Date Received <u> </u>
Public Hearing Date <u> </u>	Public Hearing Date <u> </u>
Notices Mailed by: <u> </u>	Notices Mailed by: <u> </u>
Action Date: <u> </u>	Action Date: <u> </u>
Action Taken <input type="checkbox"/> Approved <input type="checkbox"/> Denied	Action Taken <input type="checkbox"/> Approved <input type="checkbox"/> Denied
Denial Reasons or Conditions	Denial Reasons or Conditions
<u> </u> , Chair/Secretary Signature	<u> </u> , Chair/Secretary Signature

Elevations - Please show a picture of the proposed development and its height and shape above ground. You may attach formal building plans and drawings in lieu of these pages if you wish.

Front or Rear View



Side View



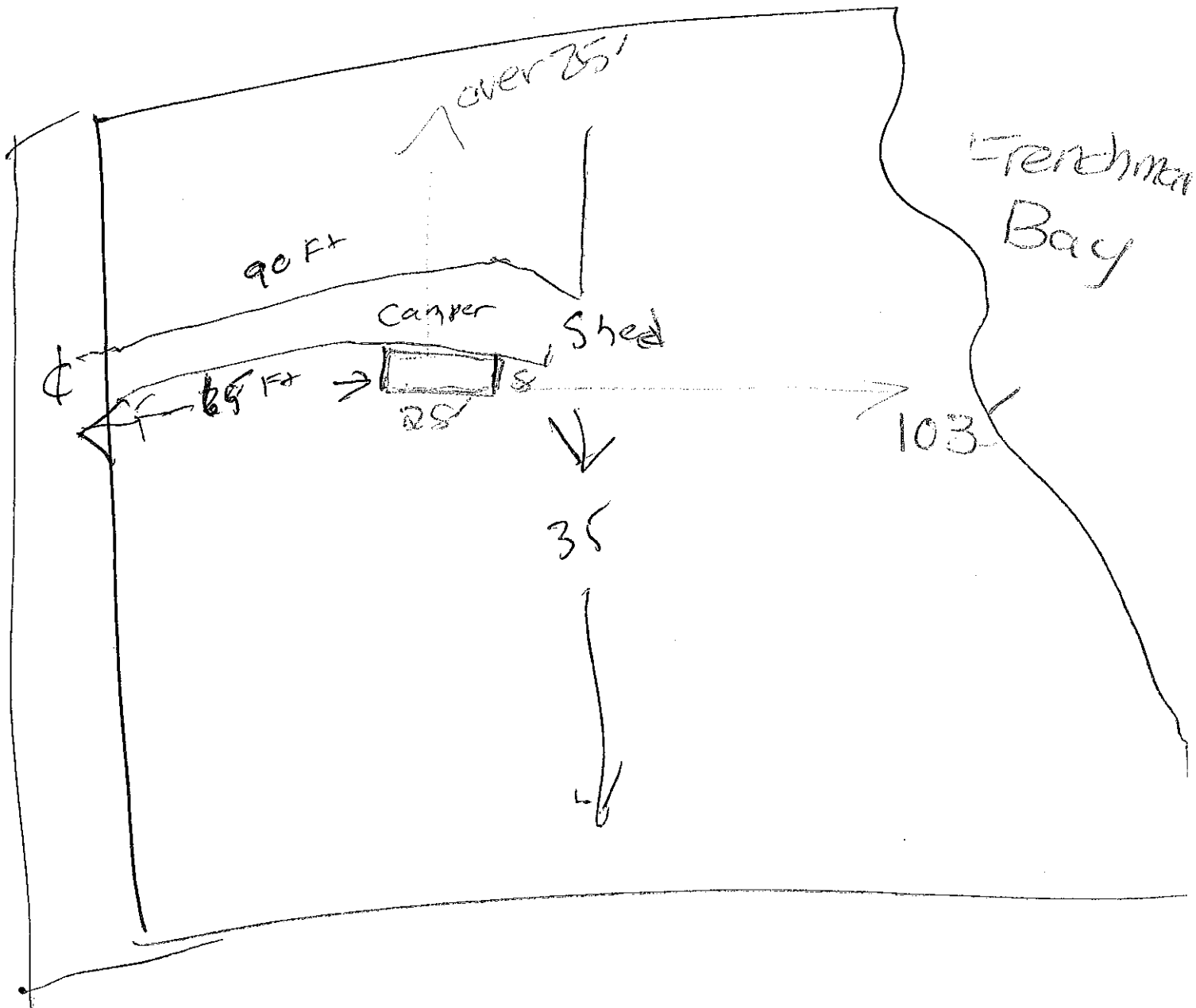
Floor Plan

Scale _____ = _____ feet

PLOT PLAN

PLEASE INCLUDE ALL SETBACK DISTANCES FROM:

Property Boundaries, Roads, Streets and rights of way, all wetlands and waterbodies, any existing wells and septic systems. Include 100 foot shoreland set back and/or flood elevations if applicable. Show all proposed decks & porches. Please identify all abutter names. (You may attach your own plot plan if you desire)



Scale _____ = _____ feet

T. Towne & D. McDowell

From: Terry Towne <ttowne@mcht.org>
Sent: Monday, September 10, 2018 10:13 AM
To: 'Terry N. Towne'
Subject: FW: Ken Ogden
Attachments: Permit By Rule application September 6 2018.pdf

From: Steve Salsbury <steve@herrickandsalsbury.com>
Sent: Thursday, September 6, 2018 3:14 PM
To: Terry Towne <ttowne@mcht.org>
Subject: Ken Ogden

Hi Terry,

FYI, attached is a permit by rule application I mailed in today. The plan is to scale. I didn't feel it was necessary to exactly dimension anything. The intention was to more closely represent the existing conditions.

Regards,
Steve

Stephen R. Salsbury, PLS
Herrick & Salsbury, Inc.
P.O Box 652
130 Oak Street, Suite 1
Ellsworth, ME 04605
Phone (207) 667-7370
Fax (207) 667-7384
email : steve@herrickandsalsbury.com

Recent New York Times article highlighting our company and one of our employees
<https://www.nytimes.com/2018/01/27/jobs/surveyor-maine.html>

04/06/2017

DEPARTMENT OF ENVIRONMENTAL PROTECTION
PERMIT BY RULE NOTIFICATION FORM
 (For use with DEP Regulation, Natural Resources Protection Act- Permit by Rule Standards, Chapter 305)
 PLEASE TYPE OR PRINT IN BLACK INK ONLY

APPLICANT INFORMATION (Owner)		AGENT INFORMATION (If Applying on Behalf of Owner)	
Name:	Ken Ogden	Name:	Stephen R. Salsbury
Mailing Address:	P O Box 53	Mailing Address:	P O Box 652
Town:	Seal Cove	Town:	Ellsworth
State and Zip Code:	Maine 04674	State and Zip Code:	Maine 04605
Daytime Phone #:	207-266-0530	Daytime Phone #:	207-667-7370
Email Address:	kogden35@yahoo.com	Email Address:	steve@herrickandsalsbury.com

PROJECT INFORMATION							
Part of a larger project? (check one):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	After the Fact? (check one):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Project Involves work below mean low water? (check one):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Name of waterbody:	Eastern Bay
Project Town:	Lamoine	Project Location (Address):	Meadow Point Road	Map & Lot Number:	M14 L39		
Brief Project Description:	Reconstruct 6'x8' shed adjacent to coastal wetland						
Brief Directions to Site:	US Rte 1 to Rte 184N to Bay Road to Meadow Point Road						

PERMIT BY RULE (PBR) SECTIONS (Check at least one): I am filing notice of my intent to carry out work which meets the requirements for Permit By Rule (PBR) under DEP Rules, Chapter 305. I and my agents, if any, have read and will comply with all of the standards in the Sections checked below.

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> Sec. (2) Act. Adj. to Protected Natural Res. | <input type="checkbox"/> Sec. (10) Stream Crossing | <input type="checkbox"/> Sec. (17) Transfers/Permit Extension |
| <input type="checkbox"/> Sec. (3) Intake Pipes | <input type="checkbox"/> Sec. (11) State Transportation Facil. | <input type="checkbox"/> Sec. (18) Maintenance Dredging |
| <input type="checkbox"/> Sec. (4) Replacement of Structures | <input type="checkbox"/> Sec. (12) Restoration of Natural Areas | <input type="checkbox"/> Sec. (19) Activities in/on/over significant vernal pool habitat |
| <input type="checkbox"/> Sec. (5) REPEALED | <input type="checkbox"/> Sec. (13) F&W Creation/Enhance/Water Quality Improvement | <input type="checkbox"/> Sec. (20) Activities located in/on/over high or moderate value inland waterfowl & wading bird habitat or shorebird feeding & roosting areas |
| <input type="checkbox"/> Sec. (6) Movement of Rocks or Vegetation | <input type="checkbox"/> Sec. (14) REPEALED | |
| <input type="checkbox"/> Sec. (7) Outfall Pipes | <input type="checkbox"/> Sec. (15) Public Boat Ramps | |
| <input type="checkbox"/> Sec. (8) Shoreline stabilization | <input type="checkbox"/> Sec. (16) Coastal Sand Dune Projects | |
| <input type="checkbox"/> Sec. (9) Utility Crossing | | |

NOTE: Municipal permits may also be required. Contact your local code enforcement office for more information. Federal permits may be required for stream crossings and for projects involving wetland fill. Contact the Army Corps of Engineers at the Maine Project Office for more information.

NOTIFICATION FORMS CANNOT BE ACCEPTED WITHOUT THE NECESSARY ATTACHMENTS

- ☒ **Attach** all required submissions for the PBR Section(s) checked above. The required submissions for each PBR Section are outlined in Chapter 305 and may differ depending on the Section you are submitting under.
 - ☒ **Attach** a check for the correct fee made payable to: "Treasurer, State of Maine". The current fee for NRPA PBR Notifications can be found at the Department's website: <http://www.maine.gov/dep/feesched.pdf>
 - ☒ **Attach** a location map that clearly identifies the site (U.S.G.S. topo map, Maine Atlas & Gazetteer, or similar).
 - ☐ **Attach Proof of Legal Name** if applicant is a corporation, LLC, or other legal entity. Provide a copy of Secretary of State's registration information (available at <http://icrs.informe.org/nei-sos-icrs/ICRS?MainPage=x>) Individuals and municipalities are not required to provide any proof of identity.
- I authorize staff of the Departments of Environmental Protection, Inland Fisheries & Wildlife, and Marine Resources to access the project site for the purpose of determining compliance with the rules.
- I also understand that this PBR becomes effective 14 calendar days after receipt by the Department *unless the Department approves or denies the PBR prior to that date.*

By signing this Notification Form, I represent that the project meets all applicability requirements and standards in the rule and that the applicant has sufficient title, right, or interest in the property where the activity takes place.

Signature of Agent or Applicant:		Date:	9/6/2018
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Keep a copy as a record of permit. Send the form with attachments via certified mail or hand deliver to the Maine Dept. of Environmental Protection at the appropriate regional office listed below. The DEP will send a copy to the Town Office as evidence of the DEP's receipt of notification. No further authorization by DEP will be issued after receipt of notice. Permits are valid for two years. **Work carried out in violation of any standard is subject to enforcement action.**

AUGUSTA DEP
17 STATE HOUSE STATION
AUGUSTA, ME 04333-0017
(207)287-7688

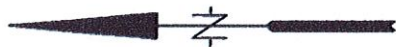
PORTLAND DEP
312 CANCO ROAD
PORTLAND, ME 04103
(207)822-6300

BANGOR DEP
108 HOGAN ROAD
BANGOR, ME 04401
(207)941-4570

PRESQUE ISLE DEP
1235 CENTRAL DRIVE
PRESQUE ISLE, ME 04769
(207)764-0477

OFFICE USE ONLY	Ck.#	Date	Staff	Staff	After Photos
PBR #	FP		Acc. Date	Def. Date	

EASTERN BAY

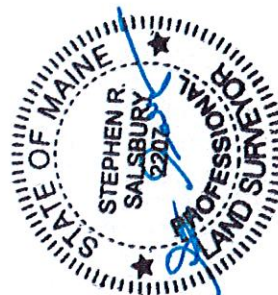
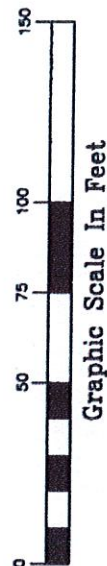


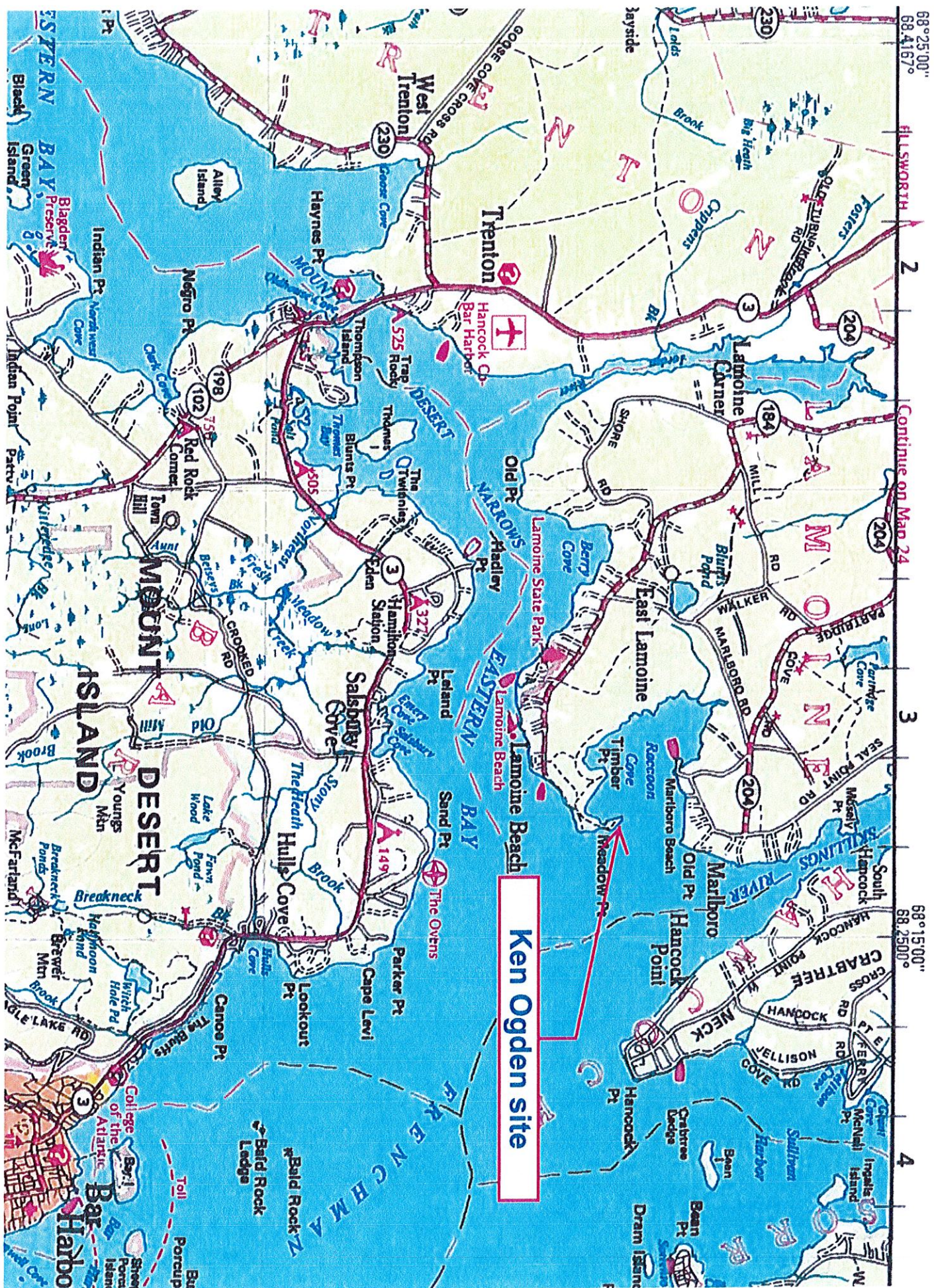
SKETCH OF EXISTING CONDITIONS FOR :

KEN OGDEN

Meadow Point Road, Lamoine, Maine

September 6, 2018 Scale : 1" = 50'





44°28'07.5"

49°24'00mN

ZONE VE
(EL 13)

Town of
Lamoine
230285

ZONE VE
(EL 13)

ZONE AE
(EL 11)

ZONE VE
(EL 13)

ZONE VE
(EL 13)

ZONE AE
(EL 11)

Town of
Lamoine
230285

NORTH RD

N COVER RD

MEADOW POINT RD

ZONE AE
(EL 11)

49°23'00mN

ZONE AE
(EL 11)

ZONE AE
(EL 11)

BAY RD

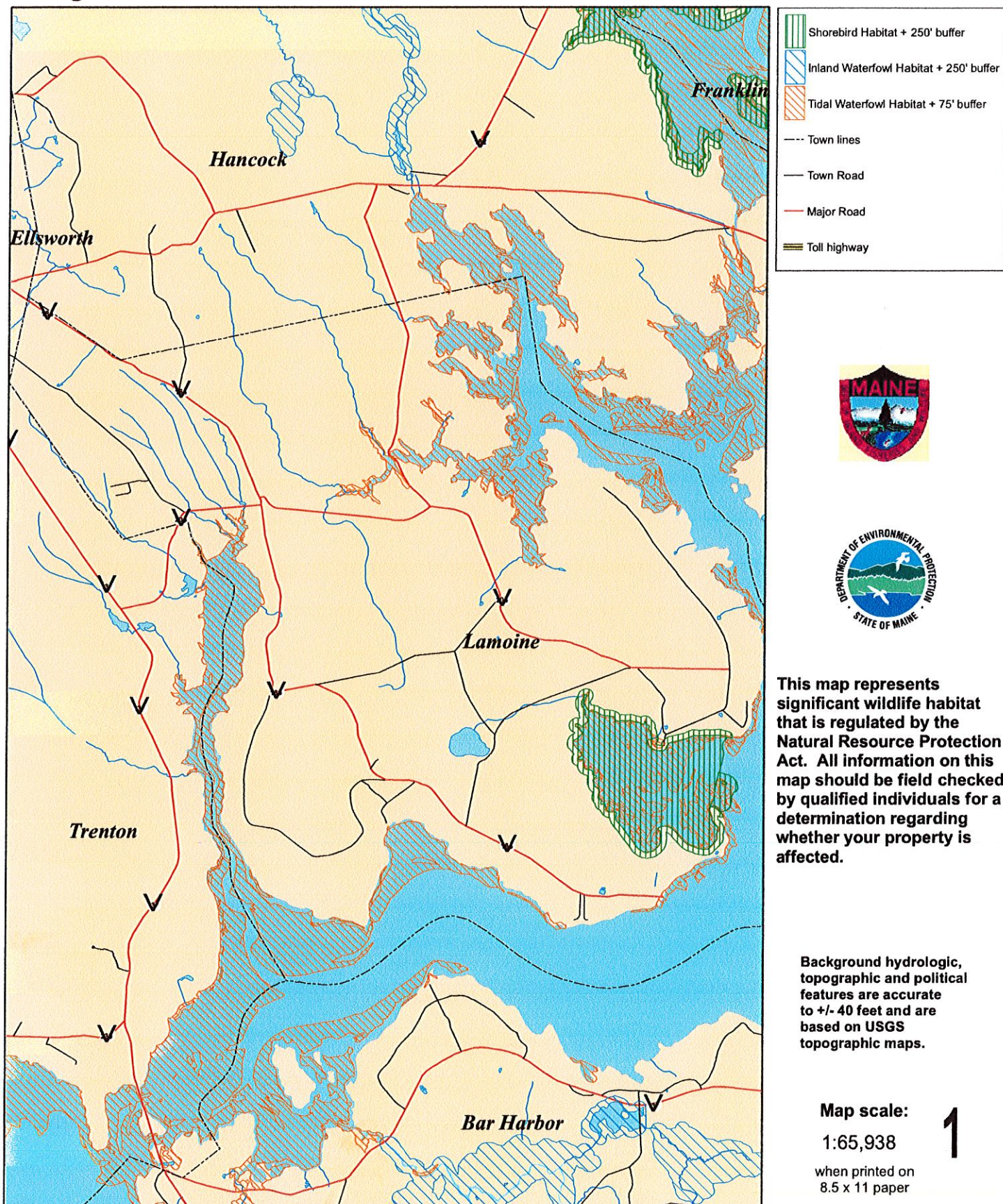
ZONE AE
(EL 12)

ZONE VE
(EL 13)

174

Lamoine

Significant Wildlife Habitat - Shorebird, Tidal, and Waterfowl Habitats



(Questions or need a field visit? Contact DEP at 1-800-452-1942)
www.maine.gov/dep/blwq/docstand/nrpa/birdhabitat

October 3, 2006

T. Towne & D. McDowell

From: beck albright <lamoineceo@gmail.com>
Sent: Wednesday, July 3, 2019 2:53 PM
To: T. Towne & D. McDowell
Subject: Re: FW: Map 14 Lot 39

Hi Terry, Ken is in the process of retrieving a report from Steve Salsbury regarding this issue. I have been in close communication with Ken for the past two days. Ken requests that you call him at 266-0530. He also has your phone number since he requested a copy of your complaint and will be calling you if he does not hear from you shortly.

On Wed, Jul 3, 2019 at 1:02 PM T. Towne & D. McDowell <raccooncove@roadrunner.com> wrote:

Hi Rebecca,

I based my statement on John Cullen's email, which I included in the email chain to you (see below), which clearly states, "I spoke to Rebecca about the wood chips Ken Ogden had spread around, not the trailer placement. " There is nothing slanderous going by a state official's word. While I agree that the SZO definitions state that a recreational vehicle is not a structure, but the SZO is also clear on its placement, "Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and one hundred (100) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland."

Terry

From: beck albright <lamoineceo@gmail.com>
Sent: Wednesday, July 3, 2019 11:10 AM
To: T. Towne & D. McDowell <raccooncove@roadrunner.com>
Subject: Re: FW: Map 14 Lot 39

Hi Terry. The SZO has a definition of a Recreational Vehicle. It states in that definition that an RV is NOT a structure,"In order to be considered a vehicle and not a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles" Hence, an RV, not being a "structure" does not need to meet the set-back s that actual structures do. An RV can be placed on the property for 120 only.

Actually, Jon and I did discuss the placement of Ken's RV, I am finding your commentary verging on personally slanderous. I would caution not to conjecture about a conversation in which you had absolutely no part in.

On Wed, Jun 26, 2019 at 6:24 PM T. Towne & D. McDowell <raccooncove@roadrunner.com> wrote:

Hi Rebecca,

I too spoke to John Cullen this morning, apparently before you, and what he told me was completely different than what your email stated, so I forwarded your email to him to verify. Also, he and I discussed Steve Salisbury's survey that I personally gave to you which showed the RV area was 15' or less from the coastal wetland, and John Cullen confirmed that was true. As you can see, he did not speak to you about the RV's placement and he did not verify your statement. So back to my original question, does the RV meet the setback requirements of the Lamoine Shoreland Zoning Ordinance for the temporary placement of recreational vehicles?

SZO Section: 15 B. Required Setbacks and other Structure Standards

1. Setbacks from Normal High-Water and Flood Plain Boundaries All new principal and accessory structures shall be set back at least one hundred (100) feet from the normal high-water line of any water bodies, tributary streams, or the upland edge of a wetland, except: a. in the Commercial Fisheries/Maritime Activities District there shall be no minimum setback if uses are functionally water-dependent; or b. when dictated otherwise by the Lamoine Flood Plain Management Ordinance.

The one hundred (100) foot setback mark must be approved by the Code Enforcement Officer prior to any work being done or, in cases where a structure or activities are to be within 125 feet of normal high-water line, the setback mark must be marked with stakes set by a registered surveyor at the owner's expense and a letter from said surveyor attached to the application for shoreland permit.

If a structure or activities are proposed within twenty-five (25) feet of the hundred year Flood Plain, falling thereby in a Resource Protection District, the boundary of that zone must be established and marked by a certified surveyor at the owner's expense and a letter to that effect must be submitted as part of the application for permit.

Both setback and Floodplain elevation markers must remain undisturbed until the Code Enforcement Officer's inspection has determined that all construction conforms to the requirements of this and other pertinent ordinances.

SZO Section: 15 E. Temporary Uses: Individual, private campsites, recreational vehicles, and similar temporary shelters are permitted provided the following conditions are met:

1. One campsite per lot existing on the effective date of this Ordinance, or forty thousand (40,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted. 2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and one hundred (100) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland. 3. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle. 4. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet. 5. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required. 6. When a recreational vehicle, tent or similar shelter is placed on a site for purposes of occupation for more than one hundred and twenty (120) days within a calendar year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

Terry

From: Cullen, John <John.Cullen@maine.gov>
Sent: Wednesday, June 26, 2019 12:19 PM
To: raccooncove <raccooncove@roadrunner.com>
Subject: RE: Map 14 Lot 39

Terry:

I spoke to Rebecca about the wood chips Ken Ogden had spread around, not the trailer placement. In my mind, the location of the trailer relative to the edge of the salt marsh has always been the biggest issue. That's a question for the town, not for me.

Jon Cullen

Maine Department of Environmental Protection

(207)592-4808

John.cullen@maine.gov

From: raccooncove [<mailto:raccooncove@roadrunner.com>]
Sent: Wednesday, June 26, 2019 12:14 PM
To: Cullen, John <John.Cullen@maine.gov>
Subject: Fwd: Map 14 Lot 39

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi John,

Sorry to get you in the middle of this. Quick question, is this email from Rebecca correct about her conversation with you? Thanks

Terry

Sent from my iPad

Begin forwarded message:

From: beck albright <lamoineceo@gmail.com>
Date: June 26, 2019 at 11:23:29 EDT
To: "T. Towne & D. McDowell" <raccooncove@roadrunner.com>
Subject: Re: Map 14 Lot 39

Hi Terry. I just spoke with Jon Cullen @ DEP about the Ogden lot. He and Dawn Hurd both find that Mr. Ogden's RV placement is compliant. Jon Cullen is going to go to the William Andrew's lot on Cove Rd. on Friday and then report to me the violations from the State's viewpoint. I will apprise you as soon as I have his report. Rebecca

On Tue, Jun 25, 2019 at 1:01 PM T. Towne & D. McDowell <raccooncove@roadrunner.com> wrote:

Good Afternoon Rebecca,

I have attached a complaint form for any inquiry about the placement of a recreational vehicle located on Map 14 Lot 39. In short, does the recreational vehicle meet the setback requirements set in our Shoreland Zoning Ordinance? Thank you for your time on this matter.



